

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

|                                 |   |                                    |
|---------------------------------|---|------------------------------------|
| CHARU DESAI,                    | ) |                                    |
| Plaintiff,                      | ) |                                    |
|                                 | ) |                                    |
| v.                              | ) | Civil Action No. 4:19-cv-10520-TSH |
|                                 | ) |                                    |
| UNIVERSITY OF MASSACHUSETTS,    | ) |                                    |
| MEMORIAL MEDICAL CENTER, INC.   | ) |                                    |
| UNIVERSITY OF MASSACHUSETTS     | ) |                                    |
| MEMORIAL MEDICAL GROUP,         | ) |                                    |
| UNIVERSITY OF MASSACHUSETTS     | ) |                                    |
| MEDICAL SCHOOL, UMASS           | ) |                                    |
| MEMORIAL HOSPITAL, MAX ROSEN,   | ) |                                    |
| M.D., DARREN BRENNAN, M.D.,     | ) |                                    |
| STEPHEN TOSI, M.D., KARIN DILL, | ) |                                    |
| M.D.,                           | ) |                                    |
| Defendants.                     | ) |                                    |
|                                 | ) |                                    |

MOTION FOR TO CONTINUE ORAL ARGUMENT ON MOTION FOR SUMMARY  
JUDGMENT

NOW COMES the Plaintiff, Charu Desai, and respectfully request that the hearing for oral argument on the Defendants' Motion for Summary Judgment in this matter be continued for forty-five (45) days. In support of her motion, the Plaintiff states as follows:

1. Fact discovery in this matter concluded on June 30, 2021.
2. On October 25, 2021, the Parties agreed to extend the time for Defendants to file dispositive motions to December 17, 2021.
3. Defendants filed their respective Motions for Summary Judgment on December 17, 2021.
4. Attorney Patricia Washienko represented Plaintiff at the time Defendants' filed their respective Motions for Summary Judgment

5. Plaintiff filed her Opposition to Defendants' Motions for Summary Judgment on February 11, 2022.
6. Defendants requested Plaintiff's assent to an extension of time in which to file their Reply briefs and a continuance of the hearing for oral arguments on the Motions for Summary Judgment scheduled for February 24, 2022. Plaintiff assented to Defendants' request and Defendants filed the assented to motion on February 15, 2022.
7. Defendants' Motion for an Extension of Time to File their Reply Memoranda and Reschedule Hearing was allowed on February 16, 2022 and the Hearing for Oral Arguments on Defendants' Motion for Summary Judgment was rescheduled to March 28, 2022.
8. On March 4, 2022, Defendants filed their Reply to Plaintiff's Opposition to Defendants' Motion for Summary Judgment.
9. With their Reply to Plaintiff's Opposition to Defendants' Motion for Summary Judgment, Defendants submitted several affidavits and exhibits that contained new information that was not included on the record prior to the close of discovery.
10. On or about March 3, 2022, Plaintiff terminated Attorney Washienko's services and retained Attorney Timothy Kolman of Kolman Law, P.C., located in Pennndel, Pennsylvania as lead counsel and the Upper Charles Law Group, LLC of Lexington, Massachusetts as local counsel. On March 15, 2022, Attorney Timothy D. Rodden Jr. entered his appearance of counsel with this Honorable Court.

11. Attorney Kolman is in the process of obtaining his certificate of good standing from the courts in his jurisdiction, upon receipt of which, Attorney Rodden shall file a petition with this court to add Attorney Kolman as an attorney of record in this matter pro hac vice.
12. On March 16, 2022, Attorney Washienko submitted her Motion to Withdraw as Counsel for Plaintiff in this matter.
13. Counsel for Defendants did not object to Attorney Washienko's removal as counsel for Plaintiff when she filed her Motion to Withdraw as Counsel for Plaintiff and did not indicate that Defendants had any objection to a continuance of the hearing on oral arguments of the Motion for Summary judgment given that new counsel was entering the case.
14. In fact, the only communication the undersigned counsel received from counsel for Defendants upon entering his appearance was an email from Attorney Robert Kilroy stating, "Welcome to the case! Looking forward to working with you on this one!"
15. Since entering an appearance in this matter, successor counsel has experienced difficulty in accessing copies of Plaintiff's file from Attorney Washienko due to technical difficulties, as many of the documents sent to successor counsel by Attorney Washienko's office were corrupted when received. See Exhibit A.
16. Additionally, there are a significant amount of documents that require review by successor counsel once the aforementioned technical difficulties are able to be resolved.

17. Further, Attorney Kolman is scheduled to empanel a jury in a pre-trial conference on another matter on March 28, 2022 and is, therefore, unavailable on March 28, 2022.
18. As such, Plaintiff will be prejudiced if a continuance of the hearing for oral arguments of the Motion for Summary Judgment is not granted because successor counsel has been unable to review a multitude of documents necessary to prepare for the hearing. The delay in reviewing documents was unexpected and uncontrollable by successor counsel.
19. On March 22, 2022, the undersigned counsel contacted Attorney Kilroy, explained the aforementioned difficulties, and requested his assent to an extension of the hearing of the Motion for Summary Judgment of forty-five (45) days.
20. Attorney Kilroy responded that Defendants were not agreeable to an extension because “If there was any indication of a need for an extension, we would have opposed Patty’s motion to withdraw and would have argued that she be permitted to withdraw only after the hearing. In fact, Patty’s motion affirmatively represented that new counsel had entered their appearance and would represent Dr. Desai at the hearing on March 28<sup>th</sup>.”
21. Attorney Washienko did not submit her Motion to Withdraw as Counsel for Plaintiff to successor counsel for review prior to her submission to the Court.
22. In his response, Attorney Kilroy did not state that Defendants’ reasons for opposing a request for a continuance of the hearing of the oral arguments on the Motion for Summary Judgment was due to prejudice to the Defendant.

23. Given the lengthy life cycle of this case, there is little or no prejudice to the Defendants if the oral arguments of the Motion for Summary Judgment is continued by forty-five (45) days and opposing counsel has indicated no prejudice or, indeed, no *legitimate* reason for not consenting to a continuance.

WHEREFORE, the parties respectfully request that this Court allow this joint motion to extend the scheduling order.

Respectfully submitted, Plaintiff,  
**CHARU DESAI,**  
By her attorney:

/s/Timothy D. Rodden Jr.  
Timothy D. Rodden, Jr., Esq.  
BBO#: 691228  
The Upper Charles Law Group, LLC  
81 Hartwell Avenue, Suite 101  
Lexington, MA 02421  
Ph: (617) 600-7170  
Email: trodden@uclawgroup.com

Dated: March 22, 2022

**Certificate of Service**

I, Timothy D. Rodden Jr., counsel for the Plaintiff, hereby certify that I have this day, March 22, 2022, served the foregoing document upon all parties, by electronically filing to all ECF registered parties, and by sending a copy, first class mail, postage prepaid to all unregistered parties.

/s/ Timothy D. Rodden Jr.  
Timothy D. Rodden Jr.